

PR#9833

CRUTCHER, JAMES

12/20/2007

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA
3

4 STATE OF OKLAHOMA, ex rel.
5 W. A. DREW EDMONDSON,
6 in his capacity as
7 ATTORNEY GENERAL OF THE
8 STATE OF OKLAHOMA and
9 OKLAHOMA SECRETARY OF THE
10 ENVIRONMENT C. MILES TOLBERT,
11 in his capacity as the TRUSTEE
12 FOR NATURAL RESOURCES FOR THE
13 STATE OF OKLAHOMA,
14

15 Plaintiffs,

16 Vs. No. 05-CV-0329 GKF-SAJ

17 TYSON FOODS, INC., TYSON
18 POULTRY, INC., TYSON
19 CHICKEN, INC., COBB-VANTRESS,
20 INC., AVIAGEN, INC., CAL-MAINE
21 FOODS, INC., CAL-MAINE FARMS,
22 INC., CARGILL, INC., CARGILL
23 TURKEY PRODUCTION, LLC,
24 GEORGE'S, INC., GEORGE'S FARMS,
25 INC., PETERSON FARMS, INC.,
SIMMONS FOODS, INC., and WILLOW
BROOK FOODS, INC.,

Defendants.

VIDEOTAPED DEPOSITION OF JAMES CRUTCHER, M.D.
TAKEN ON BEHALF OF THE DEFENDANTS
ON DECEMBER 20, 2007, BEGINNING AT 9:38 A.M.
IN OKLAHOMA CITY, OKLAHOMA

VIDEOTAPED BY: STESHA FERGUSON
REPORTED BY: DANIEL LUKE EPPS, CSR, RPR

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1 THE VIDEOGRAPHER: This is the
2 videotaped deposition of Dr. James Crutcher in
3 the matter of State of Oklahoma versus Tyson
4 Food, et al., filed in the District Court for the
5 Northern District of Oklahoma, case number
6 05-CV-0329-GKF-SAJ. This deposition is being
7 held at 5801 Broadway Extension, Suite 101, in
8 Oklahoma City, Oklahoma on December 20, 2007. We
9 are on the record at 9:38 a.m. Will counsel
10 please state their appearances for the record.

11 MR. ELROD: John Elrod for Defendant
12 Simmons.

13 MR. MCDANIEL: Scott McDaniel for
14 Peterson Farms, Inc.

15 Mr. GEORGE: Robert George for the
16 Tyson Defendants.

17 MR. PAGE: David Page for the State
18 of Oklahoma.

19 MR. NANCE: Bob Nance for the State
20 of Oklahoma.

21 MR. ELROD: Telephone?

22 MR. BROWN: David Brown representing
23 Willow Brook.

24 MS. BRONSON: Vicki Bronson for
25 Simmons Foods.

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2 MR. SANDERS: Bob Sanders for the
3 Cal-Maine Defendants.

4 THE VIDEOGRAPHER: The court
5 reporter will now swear the witness.

6 MR. ELROD: Bob Redemann is on there,
7 too, for Cal-Maine. Did you get that?
8 WHEREUPON,

9 JAMES CRUTCHER, M.D.,
10 having been first duly sworn, deposes and says in
11 reply to the questions propounded as follows,
12 to-wit:

13 DIRECT EXAMINATION

14 BY MR. ELROD:

15 Q Dr. Crutcher, we were introduced
16 just very briefly. My name is John Elrod. I
17 represent Simmons Foods, one of the defendants in
18 this case, and I will ask you to say your name
19 and tell us your address, please. Your business
20 address is fine.

21 A James Crutcher. Oklahoma State
22 Department of Health, 1000 Northeast 10th Street,
23 Oklahoma City.

24 Q And you graduated from high school
25 where?

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1 next sentence says, "Several geographic clusters
2 of campylobacteriosis occurred during the summer
3 months in Cleveland, Kingfisher, LeFlore,
4 Oklahoma, and Tulsa Counties."

5 A Right.

6 Q Do you have a recollection of that
7 in 2004, sir?

8 A No, I do not.

9 Q Do you know, sir, if there was -- if
10 there's any explanation why there were clusters
11 of campylobacteriosis in these five counties?

12 A No, I do not.

13 Q What does -- and you've used the
14 word "cluster" yourself today. Tell me how you
15 define -- what would constitute a cluster of a
16 disease?

17 A Geographic or temporally focused
18 increased number of cases that were occurring.
19 So over a short period of time or in a certain
20 geographic area, you see a number of cases that
21 occur that make you think that there may be some
22 common association to them.

23 Q When your department receives the
24 data from the counties, is that part of the
25 mission is to be analyzing that data to identify

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1 whether any clusters exist?

2 A Yes.

3 Q And I believe based upon the
4 questions you answered a few moments ago that the
5 department has not identified any cluster at any
6 time related to campylobacter within the Oklahoma
7 counties in the Illinois River Watershed, is that
8 correct?

9 A None that I am aware of. Again,
10 Dr. Bradley may have additional information, but
11 I am not aware that there have been specific
12 outbreaks associated there.

13 Q Sir, would your answer be the same
14 for salmonellosis?

15 A Yes.

16 Q And for E. coli?

17 A Yes.

18 Q The next paragraph on that page,
19 Doctor, it says, "In 2004, cases ranged in age
20 from one day to 92 years with a median age of 28
21 years." The next sentence, "Infants and young
22 children had the highest incidence of
23 campylobacter infections." Doctor, can you
24 explain why infants and young children had the
25 highest incident rate?

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1 Q So if the concern was is there a
2 problem in Adair County, that's where you would
3 go with your investigation to locate the cases
4 and take the steps you just described?

5 A Yes, generally. I mean, if you feel
6 that it's focalized in an area, if that's where
7 all the cases were occurring, yes, generally
8 you'd go there.

9 Q Have you reviewed anything to
10 suggest that the steps that you just described
11 have been performed in this case?

12 A To my knowledge, they have not.
13 That we have done a more formal epidemiological
14 investigation of the causes of campylobacter in
15 Adair County, that's what you're asking?

16 Q Yes, sir.

17 A No.

18 Q All right. Let's -- all right. The
19 exercise we went through just a moment ago, let's
20 look at salmonellosis. Am I saying that correct?

21 A Yes.

22 Q They come out of the mouth really
23 hard to explain. All right. Let's look at
24 Number 7. Is that the 2002 data?

25 A Yes. It's 2003, I have.

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1 and they have it, that may be an easier
2 association to make.

3 Q And to your knowledge has that been
4 performed in this case?

5 A There has been no epidemiological
6 study by the health department to try to confirm
7 that.

8 Q Well, to your knowledge has anyone
9 conducted that work in this case?

10 A Not to my knowledge.

11 Q As part of the epidemiological
12 study, I would assume one of the variables that
13 you would want to consider would be the foodborne
14 pathway if that is the most commonly found
15 pathway for the ingestion of the organism. Is
16 that a correct statement?

17 A Yes.

18 Q Now, your department has the
19 responsibility for performing -- I think lay
20 people call them health inspections of
21 restaurants or other places that prepare food.

22 A Right, right.

23 Q What is the objective of doing food
24 preparation health inspections?

25 A To assure that the facilities are

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1 were we asked to do anything? No.

2 Q I'll state the question a little
3 more clearly. It was kind of awkward. Did I
4 understand correctly that your agency was not
5 consulted about claims of threats to human health
6 prior to the filing of this lawsuit?

7 A That's true.

8 Q Now, if I understand your testimony
9 thus far, Dr. Crutcher, your department regularly
10 receives at least on a yearly basis public health
11 data about disease incidence from counties
12 throughout the state of Oklahoma, is that
13 correct?

14 A We receive reporting information
15 from all over the state primarily from, again,
16 hospitals, physicians, and in laboratories. The
17 information does not originally come to us from
18 county health departments. It comes from those
19 entities throughout the state in the respective
20 counties.

21 Q Given the reports that have been
22 discussed here today, do I understand correctly
23 that after that data is received from all of
24 those various sources, that one of the things the
25 department of health does is organize it by

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1 county?

2 A Yes.

3 Q Okay. And the county data which
4 your department is the custodian of in terms of
5 public health data includes reported incidences
6 of campylobacteriosis, E. coli, and
7 salmonellosis, is that correct?

8 A Yes.

9 Q And included in the county data
10 would be information from the counties of Adair,
11 Cherokee, Delaware, and Sequoyah Counties,
12 correct?

13 A Yes.

14 Q Now, someone at your department, I
15 assume, you correct me if I'm wrong, actually
16 reviews that data, countywide data, to identify
17 trends or patterns or possible alarming
18 incidences, is that correct?

19 A Yes.

20 Q Okay.

21 A Periodically that is done. We
22 create an annual report so it may be done
23 annually where that's looked at.

24 Q If someone in your department
25 perceives a statistically significant elevation

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1 in a disease incidence in a particular county, do
2 I understand that your department has both the
3 authority and the obligation to investigate those
4 statistically significant elevations in disease?

5 A Yes. I mean, there's no firm
6 guideline as to when that has to take place.
7 It's certainly within -- we have a bit of
8 latitude to, you know, use the knowledge that we
9 have to determine whether we think it is a
10 significant increase in disease to determine
11 whether we launch into an investigation.

12 Q Okay. In your 12 years at the
13 department of health, has your department ever
14 taken any action that you're aware of based on a
15 belief that Adair, Cherokee, Delaware, or
16 Sequoyah Counties were experiencing a
17 statistically significant elevated rate of
18 campylobacteriosis?

19 A No.

20 Q Okay. In your 12 years at the
21 department, has the department of health ever
22 taken any action that you're aware of based upon
23 a belief that Adair, Cherokee, Delaware, and
24 Sequoyah counties were experiencing a
25 statistically significant elevated rate of

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1 salmonellosis? I have a hard time saying that.

2 A No.

3 Q If I ask the same question with
4 regard to E. coli, would your answer be the same?

5 A Yes.

6 Q When information is available to
7 your department, sir, that suggests an imminent
8 and substantial threat to human health, does your
9 department regularly issue warnings or public
10 advisories?

11 A Yes.

12 Q Okay. I noticed in looking through
13 some materials from your website that I've put
14 before you that your department apparently uses
15 its website as you would imagine as a
16 communication vehicle and as a result of that
17 posts its notices on the website, correct?

18 A Yes.

19 Q And I won't ask you to do this. I
20 went through just for 2007 to see how prolific
21 your department had been in issuing notices and I
22 came to about 150. Do you have any reason to
23 disagree with that range in terms of the extent
24 to which your department issues notices informing
25 the public of health risks?